

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION & LICENSING

IN THE MATTER OF A PETITION FOR AN
ADMINISTRATIVE INJUNCTION INVOLVING

ROBERT GAFFNEY and
WENDY GAFFNEY,

Respondents.

ORDER AND DECISION

96 REB 117

LS9905171REB

The parties in this matter under Chapter RL 3, Wisconsin Administrative Code and Section 227.44 of the Wisconsin Statutes and for purposes of review under section 227.53 of the Wisconsin Statutes are:

*Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708*

*Robert Gaffney
2504 Iris Lane
Wausau, WI 54401*

*Wendy Gaffney
2504 Iris Lane
Wausau, WI 54401*

*Department of Regulation and Licensing
1400 East Washington Avenue
Madison, WI 53708*

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Secretary of the Department of Regulation and Licensing, ("Secretary"), or her designee. The Secretary has reviewed this Stipulation and considers it acceptable.

Accordingly, the Secretary adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. The Respondents, Robert and Wendy Gaffney, maintain a mailing address of 2504 Iris Lane, Wausau, Wisconsin 54401.
2. Respondents are engaged in the construction and sales of residential homes under the business name of "Gaffney Construction." The business address for Gaffney Construction is 2504 Iris Lane, Wausau, Wisconsin 54401.
3. Respondents are not licensed as real estate brokers in the State of Wisconsin.

4. Over the last five years, the Respondents have constructed and sold nineteen (19) homes within the State of Wisconsin. Only ten (10) of the nineteen (19) homes were sold by licensed real estate brokers; the remaining homes were sold directly by Respondents.

CONCLUSIONS OF LAW

1. The Department of Regulation and Licensing has jurisdiction in this unlicensed practice matter pursuant to section 440.21 of the Wisconsin Statutes.
2. Respondents' conduct of selling residential homes is within the definition of real estate practice under sec. 452.02 (b) of the Wisconsin Statutes which provides that five sales in one year or ten sales in five years is presumptive evidence of a pattern of real estate sales.
3. Respondents' conduct constitutes unlicensed real estate activities pursuant to 452.17 (1) of the Wisconsin Statutes.

ORDER OF INJUNCTION

Pursuant to section 440.21(2) of the Wisconsin Statutes, and Chapter RL 3 of the Wisconsin Administrative Code,

IT IS ORDERED THAT, unless and until the Respondents, Robert and Wendy Gaffney, obtain licensure under Chapter 452 of the Wisconsin Statutes, as licensed real estate brokers, they are enjoined and prohibited from continuing to engage, either directly or indirectly, in conduct that requires licensure as a real estate broker under Chapter 452 of the Wisconsin Statutes; and

Respondents are hereby notified that a violation of the above order may result in a forfeiture of up to \$10,000 for each offense, and each day of a continued violation constitutes a separate offense.

DEPARTMENT OF REGULATION AND LICENSING

Marlene A. Cummings

Secretary of the Department

May 17, 1999

Date